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**GRG Lift Truck Service Chicago North, Inc. and Automobile Mechanics Local No. 701, International Association of Machinists and Aerospace Workers, AFL-CIO. Case 13-CA-32807**

February 17, 1995

**DECISION AND ORDER**

BY CHAIRMAN GOULD AND MEMBERS STEPHENS  
AND BROWNING

Upon a charge filed by the Union on September 19, 1994, the General Counsel of the National Labor Relations Board issued a complaint on October 25, 1994, against GRG Lift Truck Service Chicago North, Inc., the Respondent, alleging that it has violated Section 8(a)(5) and (1) of the National Labor Relations Act. Although properly served copies of the charge and complaint, the Respondent failed to file an answer.

On January 23, 1994, the General Counsel filed a Motion for Summary Judgment with the Board. On January 25, 1994, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

**Ruling on Motion for Summary Judgment**

Sections 102.20 and 102.21 of the Board's Rules and Regulations provide that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively notes that unless an answer is filed within 14 days of service, all the allegations in the complaint will be considered admitted. Further, the undisputed allegations in the Motion for Summary Judgment disclose that the Region, by letter dated November 14, 1994, notified the Respondent that unless an answer was received by November 21, 1994, a Motion for Summary Judgment would be filed, and that thereafter, on December 19, 1994, the complaint was re-served on the Respondent. Nevertheless, the Respondent failed to file an answer.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

**FINDINGS OF FACT**

**I. JURISDICTION**

At all material times, the Respondent, a corporation, at its facility in Elgin, Illinois, has been engaged in truck repair. During the 12 months preceding issuance of the complaint, the Respondent purchased and received goods valued in excess of \$50,000 directly from points outside the State of Illinois, and provided services valued in excess of \$50,000 for Emery Air Charter and Consolidated Freightways, Inc., enterprises within the State of Illinois that are directly engaged in interstate commerce. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

**II. ALLEGED UNFAIR LABOR PRACTICES**

The following employees of the Respondent (the unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All hourly employees in the occupations of Industrial Truck Mechanic, Journeyman, Battery Repair, A & B, Painter, A & B, Welder Fabricator Journeyman, and Garagemen, Planned Maintenance Technician, and/or the job classification of Learner, employed by the Respondent, excluding all office and plant clerical employees, casual employees, technical employees, guards, professional employees, supervisors as defined in the Act, and all other persons employed by the Respondent.

On June 24, 1953, the Union was certified as the exclusive collective-bargaining representative of the unit. At all times since June 24, 1953, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the unit.

At all material times, the Respondent and the Union have been parties to a collective-bargaining agreement effective from November 1, 1993, through October 31, 1996.

Since about April 1994, the Respondent has failed and refused to adhere to the terms and conditions of the collective-bargaining agreement by failing and refusing to remit union dues to the Union which have been deducted by the Respondent from the paychecks of unit employees pursuant to dues-checkoff authorizations by the unit employees.

Since April 1994, the Respondent has also failed and refused to adhere to the terms and conditions of the collective-bargaining agreement by failing to honor the checkoff provisions of the agreement and deduct initiation fees from paychecks of the unit employees

who have signed checkoff authorizations for such fees and remit such fees to the Union.

The subjects set forth above relate to wages, hours, and other terms and conditions of employment of the unit and are mandatory subjects for the purposes of collective bargaining.

The Respondent has engaged in the conduct described above without prior notice to the Union and without providing the Union an opportunity to bargain with the Respondent regarding this conduct and without the consent of the Union.

#### CONCLUSION OF LAW

By the acts and conduct described above, the Respondent has been failing and refusing to bargain collectively with the exclusive collective-bargaining representative of its unit employees within the meaning of Section 8(d) of the Act, and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

#### REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

Specifically, having found that the Respondent violated Section 8(a)(5) and (1) by failing since about April 1994, to remit to the Union dues that were deducted from the pay of unit employees pursuant to valid dues-checkoff authorizations, we shall order the Respondent to remit such withheld dues to the Union, with interest as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987). Further, having found that the Respondent has also violated Section 8(a)(5) and (1) by failing since April 1994, to deduct and remit to the Union initiation fees for employees who had executed checkoff authorizations for such fees, we shall order the Respondent to deduct and remit initiation fees as required by the agreement and to reimburse the Union for its failure to do so, with interest as prescribed in *New Horizons for the Retarded*, supra.

#### ORDER

The National Labor Relations Board orders that the Respondent, GRG Lift Truck Service Chicago North, Inc., Elgin, Illinois, its officers, agents, successors, and assigns, shall

##### 1. Cease and desist from

(a) Failing and refusing to bargain collectively with Automobile Mechanics Local No. 701, International Association of Machinists and Aerospace Workers, AFL-CIO as the exclusive collective-bargaining rep-

resentative of the employees in the following unit by failing and refusing to remit union dues that have been deducted from the paychecks of unit employees pursuant to dues-checkoff authorization by the unit employees, and to deduct and remit to the Union initiation fees for unit employees who have signed checkoff authorizations for such fees, as required by the 1993-1996 collective-bargaining agreement:

All hourly employees in the occupations of Industrial Truck Mechanic, Journeyman, Battery Repair, A & B, Painter, A & B, Welder Fabricator Journeyman, and Garagemen, Planned Maintenance Technician, and/or the job classification of Learner, employed by the Respondent, excluding all office and plant clerical employees, casual employees, technical employees, guards, professional employees, supervisors as defined in the Act, and all other persons employed by the Respondent.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Comply with the provisions of the 1993-1996 collective-bargaining agreement regarding remitting union dues and deducting and remitting initiation fees, and make whole the Union for any losses resulting from the Respondent's failure to do so since April 1994, as set forth in the remedy section of this decision.

(b) Preserve and, on request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amounts due under the terms of this Order.

(c) Post at its facility in Elgin, Illinois, copies of the attached notice marked "Appendix."<sup>1</sup> Copies of the notice, on forms provided by the Regional Director for Region 13, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

<sup>1</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

(d) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

Dated, Washington, D.C. February 17, 1995

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William B. Gould IV, Chairman

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James M. Stephens, Member

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Margaret A. Browning, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT fail and refuse to bargain collectively with Automobile Mechanics Local No. 701, International Association of Machinists and Aerospace Workers, AFL-CIO as the exclusive collective-bar-

gaining representative of the employees in the following unit by failing and refusing to remit union dues that have been deducted from the paychecks of unit employees pursuant to dues-checkoff authorization by the unit employees, and to deduct and remit to the Union initiation fees for unit employees who have signed checkoff authorizations for such fees, as required by the 1993-1996 collective-bargaining agreement:

All hourly employees in the occupations of Industrial Truck Mechanic, Journeyman, Battery Repair, A & B, Painter, A & B, Welder Fabricator Journeyman, and Garagemen, Planned Maintenance Technician, and/or the job classification of Learner, employed by us, excluding all office and plant clerical employees, casual employees, technical employees, guards, professional employees, supervisors as defined in the Act, and all other persons employed by us.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL comply with the provisions of the 1993-1996 collective-bargaining agreement regarding remitting union dues and deducting and remitting initiation fees, and WE WILL make whole the Union for any losses resulting from our failure to do so since April 1994, with interest.

GRG LIFT TRUCK SERVICE CHICAGO  
NORTH, INC.